Court of Appeals, State of Michigan

ORDER

In the Matter of A.L. TURNER-BROOKINS, MINOR

Docket No. 295407

LC No. 08-477091-NA

Brian K. Zahra
Presiding Judge

Mark J. Cavanagh

E. Thomas Fitzgerald
Judges

The Court on it's own motion orders that the June 17, 2010 opinion is hereby AMENDED. The opinion contained the following clerical error: duplication of the words "In the matter of."

The opinion caption is amended to read: In the Matter of A.L. TURNER-BROOKINS, Minor.

In all other respects, the June 17, 2010 opinion remains unchanged.

A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

JUN 24 2010
Date

Sandra Schultz Mengel
Chief Clerk

STATE OF MICHIGAN

COURT OF APPEALS

UNPUBLISHED
June 17, 2010

In the Matter of In the Matter of A.L. TURNER-BROOKINS, Minor.

No. 295407
Wayne Circuit Court
Family Division
LC No. 08-477091-NA

Before: ZAHRA, P.J., and CAVANAGH and FITZGERALD, JJ.

PER CURIAM.

Respondent A.S. Brookins appeals as of right the trial court's order terminating her parental rights to the minor child under MCL 712A.19b(3)(g) (failure to provide proper care and custody). We affirm.

Respondent claims that the evidence did not sufficiently support grounds to terminate her parental rights. We disagree. In order to terminate parental rights, the trial court must find that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met by clear and convincing evidence. *In re Jackson*, 199 Mich App 22, 25; 501 NW2d 182 (1993), citing *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991). "If the court finds that there are grounds for termination of parental rights and that termination of parental rights is in the child's best interests, the court shall order termination of parental rights and order that additional efforts for reunification of the child with the parent not be made." MCL 712A.19b(5). We review the trial court's determination for clear error. *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). A finding is clearly erroneous if, although there is evidence to support it, this Court is left with a definite and firm conviction that a mistake has been made. *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003), citing *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). We must give regard to the special opportunity of the trial court to judge the credibility of the witnesses who appeared before it. MCR 2.613(C); *Miller*, 433 Mich at 337.

We find no clear error in the trial court's decision to terminate respondent's parental rights. *Trejo*, 462 Mich at 356-357. The record revealed that, during the approximately 20 months that the young child was in care, respondent failed to demonstrate sufficient benefit from intensive services to improve her situation so that she could provide the child with proper care or custody and stability. She displayed ongoing parenting deficiencies during the visits, was unable to obtain or maintain suitable housing, used drugs while pregnant during the proceedings, and failed to consistently visit the child toward the end of the proceedings. The testimony of the service providers who assisted respondent during the proceedings also indicated a poor prognosis. Respondent has cognitive limitations and could not take care of herself without

assistance. Those who worked with her did not believe she would be able to provide proper care and custody for the child within a reasonable time, especially given her lack of significant benefit from and commitment to services during the proceedings. Respondent's uncooperativeness and lack of follow through, her lack of forthrightness and honesty, and her failure to consistently visit the child toward the end of the proceedings showed that respondent would not likely put forth the effort required to possibly benefit from future services and assistance to improve her ability to parent the child if given the opportunity to do so.[1]

Under these circumstances, the trial court did not clearly err in finding that clear and convincing evidence established that respondent, without regard to intent, failed to provide proper care or custody for the child and there was no reasonable expectation that respondent would be able to provide proper care and custody for the child within a reasonable time. MCL 712A.19b(3)(g).

We likewise find no clear error in the trial court's determination that termination was in the child's best interests. MCL 712A.19b(5); *Trejo*, 462 Mich at 356-357. The minor child was very young, had been outside of respondent's care since infancy, had only a minimal attachment to respondent,[2] and needed permanency. Therefore, the trial court did not clearly err in deciding to terminate respondent's parental rights, instead of further delaying the child's permanency and stability.

Respondent also argues that it was improper for the court to consider the child's increasing attachment to her foster parents in determining that termination was in the child's best interest. We disagree. "[W]hile it is inappropriate for a court to consider the advantages of a foster home in deciding whether a statutory ground for termination has been established, such

[1] We also note that the evaluating psychologist indicated that, because of her cognitive limitations, respondent would require structured supervision to possibly parent the child. Even so, respondent demonstrated an inability, unwillingness, or lack of motivation to benefit from assistance, and relative assistance was not available such that parenting with assistance might be a viable option.

[2] Respondent also claims on appeal that the lack of attachment between herself and the child was due to the limited visits offered to her. While testimony by the Infant Mental Health Specialist who assisted respondent with parenting indicated that their attachment might have improved had respondent been offered more visits with the child, respondent failed to take full advantage of the visits offered to her by not attending any visit in May 2009 and attending only half of the visits for the remainder of the proceedings. Given the inconsistency in her visits, it would not likely have significantly improved their attachment if she had been offered expanded visits.

considerations are appropriate in a best-interests determination." *In re Foster*, 285 Mich App 630, 635; 776 NW2d 415 (2009).

Affirmed.

/s/ Brian K. Zahra
/s/ Mark J. Cavanagh
/s/ E. Thomas Fitzgerald